

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MATEO SCOTT TOOMAN,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SCOTT DOUGLAS TOOMAN,

Respondent-Appellant.

UNPUBLISHED

January 10, 2008

No. 276979

Oakland Circuit Court

Family Division

LC No. 05-705018-NA

Before: Schuette, P.J., and Borrello and Gleicher, JJ.

PER CURIAM.

Respondent appeals as of right from a circuit court order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

I. FACTS

On March 7, 2007, respondent had his parental rights terminated as to Mateo. In December 2004, Mateo was removed from the care of his mother, who had used cocaine and alcohol during the last month of her pregnancy. Respondent had supplied her with the cocaine and used the substance himself. Also, it was alleged that domestic violence had occurred. During this time, respondent was in jail, and upon respondent's release in January 2005, respondent was to participate in a service plan that included a substance abuse assessment, parenting classes, visitation, random drug screens, employment goals, and housing requirements.

As of the July 2005 review hearing, respondent had been released from an inpatient substance abuse program to a "three-quarter house" for outpatient treatment. He had also obtained employment. The court also added a psychological evaluation to the service plan.

As of the October 2005 review hearing, respondent had relapsed. He was expelled from the three-quarter house for selling and using drugs. He had missed two drug screens in October, had dropped out of counseling, and had lost his job for failure to show up. The court suspended respondent's parenting time until he completed a psychological evaluation and provided three negative drug screens.

As of the February 2006 review hearing, respondent had failed to make any progress. The foster care worker reported that respondent “ha[d] been using drugs, selling drugs, he [was] homeless and looking to get into a residential treatment program [H]e ha[d] not continued counseling or parenting classes. He had not had any visitation. He was rescheduled for a psychological evaluation but he did not make it.” Respondent’s parenting time continued to remain suspended until he completed three negative drug tests.

As of the May 2006 review hearing, respondent was not present. His attorney reported that he was back in jail and either had been or was about to be released. At this time, DHS reported that respondent had dropped out of counseling, had not completed parenting classes, and allegedly had another warrant out for his arrest.

On February 23, 2007, respondent submitted to a psychological evaluation. Rodney Yeacker conducted the evaluation. Yeacker testified that although respondent had “stated a motivation” to change his ways, Yeacker did not “think he exhibited one or showed one to me.”

At the time of the termination hearing, respondent had not had any contact with Mateo for over a year.

II. STANDARD OF REVIEW

If the trial court determines that a statutory ground for termination has been established, the court must terminate parental rights unless there exists clear evidence, on the whole record, that termination is not in the child’s best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353; 612 NW2d 407 (2000).

III. ANALYSIS

Respondent does not challenge the trial court’s determination that the statutory grounds for termination were proven by clear and convincing evidence. *In re IEM*, 233 Mich App 438, 450; 592 NW2d 751 (1999). He contends only that the court erred in finding that termination was not clearly contrary to the child’s best interests. MCL 712A.19b(5). We disagree.

The evidence showed that due to his continued substance abuse and legal difficulties, respondent had not seen his child for more than a year, diminishing any bond that might have existed. In addition, respondent was serving a prison sentence and could remain incarcerated for another three years, which impeded development of any parent-child bond. Further, while respondent professed an intent to change, the psychological evaluation indicated that his prognosis was guarded at best. Respondent’s sincere intention to change his ways and learn to be a proper father to his son did not clearly overwhelm respondent’s failure to show improvement during the period of more than two years that the child was under the court’s jurisdiction such that termination could be deemed contrary to the child’s best interests. *Trejo*,

supra at 364. The trial court did not err in terminating respondent's parental rights to the child.

Affirmed.

/s/ Bill Schuette

/s/ Stephen L. Borrello

/s/ Elizabeth L. Gleicher